

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
Case No. 1:18-96 MR-WCM

BRIAN HOGAN, both on his own behalf and as representative of all unnamed class members who are similarly situated; BRIAN HOGAN, as parent and next friend of H.H., both her own behalf and as representative of all unnamed class members who are similarly situated,

Plaintiffs,

vs.

CHEROKEE COUNTY; CHEROKEE COUNTY DEPARTMENT OF SOCIAL SERVICES; SCOTT LINDSAY both in his individual capacity and official capacity as attorney for Cherokee County Department of Social Services; CINDY PALMER, in both her individual capacity and her official capacity as Director of Cherokee County Department of Social Services; DSS SUPERVISOR DOE #1, et al.,

Defendants.

**MEMORANDUM IN SUPPORT
OF DEFENDANTS' CONSENT
MOTION TO SEAL**

Defendants, by and through undersigned counsel, respectfully submit this Memorandum of Law in support of their Motion to Seal. In support of said Motion, Defendants state as follows:

1. On April 29, 2021, Defendants filed Document Number 118 which inadvertently listed the name of the minor Plaintiff rather than the initials.
2. The Document contains information related to the minor Plaintiff's name that is protected.
3. Plaintiffs consent to this Motion.

ARGUMENT

Pursuant to Local Rule 6.1, this Court has express authority to seal materials contained in the record. Defendants need only demonstrate “the necessity and propriety” of sealing the document at issue, and the Court, in its discretion, may seal such document if deemed appropriate. *In re Knight Pub. Co.*, 743 F.2d 231, 235 (4th Cir. 1984) (noting that the trial court has supervisory power over its own records and may, in its discretion, seal documents if the public’s right of access is outweighed by competing interest).

As demonstrated by Defendants in their Motion to Seal filed herewith, the information contained in Document Number 118 is protected under N.C.G.S. § 7B-2901 and not subject to public disclosure.

Defendants request only that the Court seal a document that contains information already made confidential so that the Defendant can present it to the Court without violating applicable North Carolina statutes. There is no common law or First Amendment presumption to access these records, and the interest in

keeping these records private outweighs any competing interest for access.

CONCLUSION

For these reasons, Defendants respectfully request that this Motion to Seal be granted.

This the 3rd day of May, 2021.

CRANFILL SUMNER & HARTZOG LLP

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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day electronically filed the foregoing ***MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT SCOTT LINDSAY'S CONSENT MOTION TO SEAL*** with the Clerk of Court CM/ECF system, which will send notification of such filing to the following:

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This the 3rd day of May, 2021.

CRANFILL SUMNER & HARTZOG LLP

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